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DENNIS P. IAVARONE, CLERK
US DISTRICT COURT, EDNC
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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:09cv422-D

Jerrald Meek
Plaintiff,

v.

Department of the Army,
Little & Young, Inc.,
James A. McLean, III
Defendants.

COMPLAINT

I. JURISDICTION

This Court has Jurisdiction pursuant to 28 U.S.C. § 1331 (Federal question), id. § 1346(a)(2) (United States as defendant), id. § 1361 (Action to compel an Officer of the United States to perform his duty), 5 U.S.C. § 552(a)(4)(b) (Freedom of Information Act), id. § 552(a)(6)(C) (administrative remedies deemed exhausted).

II. PARTIES

A. Plaintiff

Name: Jerrald Meek
Address: 1775 Rim Rd
Fayetteville, NC 28314
Phone: (910) 339-7026

B. First Defendant

Name: Department of the Army
Address: 101 Army Pentagon
Washington, DC 20310-0101

C. Second Defendant

Name: Little & Young, Inc.
Agent: William M. Little

Address: P.O. Box 87209
Fayetteville, NC 28304-7209

D. Third Defendant

Name: James A. McLean, III
Firm: McCoy Weaver Wiggins Cleveland Rose Ray PLLC
Address: P.O. Box 87009
Fayetteville, NC 28304-7009

III. STATEMENT OF CLAIM

1. Jerrald Meek ("Plaintiff") is a Sergeant in the United States Army assigned to 3rd Battalion 3rd Special Forces Group (Airborne) (hereinafter "3 BN 3 SFG(A)"), at Fort Bragg, North Carolina.

2. On 23 March 2007 Plaintiff and his wife, Trudy Meek, entered into a one-year lease with Little & Young, Inc. for the property located at 840 Muskegon Dr., Fayetteville, NC 28311 ("Leased Premises"). Said lease was subsequently extended for an additional year.

3. Plaintiff and his wife filed an action in the General Court of Justice, 12th Judicial District of North Carolina, against Little & Young, Inc., David Howard, and Kimberly Howard on 23 June 2008; said action was designated Cumberland County No. 08CVS6360. In said action Plaintiff sought rent abatement for alleged violations of N.C. Gen. Stat. § 42-42(a), and damages pursuant to N.C. Gen. Stat. § 75-1.1. The allegations of the complaint in said action included threatened retaliatory eviction. Plaintiff and his wife were awarded damages for one violation of N.C. Gen. Stat. § 42-42(a), and were denied damages under N.C. Gen. Stat. § 75-1.1.

4. Little & Young, Inc. filed an action against Plaintiff and his wife in the General Court of Justice, 12th Judicial District, on 13 October 2008; said action was designated Cumberland County No. 08CVS11240. In said action Little & Young, Inc. sought possession of the Leased Premises, and recovery for alleged property damages. Plaintiff and his wife raised the defense of

retaliatory eviction, which was subsequently dismissed pursuant to N.C. Gen. Stat. § 1A-1, Rule 12(b)(6). Little & Young, Inc. was awarded possession of the Leased Premises, and recovery for all property damages alleged.

5. At the time of the filing of this complaint, the final Judgment in both the actions, Cumberland County No. 08CVS6360 and Cumberland County No. 08CVS11240 (hereinafter "Lease Actions"), are being appealed to the N.C. Court of Appeals.

6. James McLean, III is an attorney of record for Little & Young, Inc. in both Lease Actions. Mr. McLean regularly represents landlords in legal disputes with their tenants; and thru landlord-tenant litigations, or otherwise, Mr. McLean is regularly engaged in the activity of assisting his clients in the collection of debt.

7. On 5 February 2009, Plaintiff and his wife were each summoned to a civil deposition at the law offices of McCoy Weaver Wiggins Cleveland Rose Ray PLLC, Rebecca Ross, property manager of Little & Young, Inc., was present. After the depositions were complete, Plaintiff asked Mr. McLean to provide him with a business card so that his platoon sergeant could call if he wanted to verify the duration of the depositions.

8. After returning to his unit, Plaintiff presented said business card to his platoon sergeant; as evidenced by the counseling statement which Plaintiff received for doing so, said counseling statement is annexed hereto as Plaintiff's Exhibit A.

9. On or about 18 February 2009, Plaintiff was called into his company First Sergeant's office. 1SG Raymond Henselder, MAJ John Bishop, SFC Williams, and SFC Andrew Pezzella were all present. Plaintiff was informed that 1SG Henselder and MAJ Bishop received a phone call from a woman who told them that Plaintiff was being sued for over four thousand dollars (\$4,000) worth of property damages, and over ten thousand dollars (\$10,000) worth of attorney

fees. Plaintiff was also informed that during said phone conversation, 1SG Henselder and MAJ Bishop were told that they would be subpoenaed to testify against Plaintiff.

10. During the meeting Plaintiff was questioned about the particulars of the Lease Actions. MAJ Bishop said the reason for their questioning was because, aside from their knowledge that Plaintiff needed time off from work for occasional court hearings, he knew nothing about the Lease Actions. Plaintiff attempted to explain that MAJ Bishop and 1SG Henselder could testify to nothing relevant because they had no personal knowledge of any alleged facts, which MAJ Bishop responded to by saying, "Everything I say is relevant."

11. During the questioning, Plaintiff attempted to only offer a basic outline of alleged facts, and information already known to all parties in the Lease Actions. At times 1SG Henselder would interject with information, which had not been provided by Plaintiff. Specifically, Plaintiff recalls that when Plaintiff mentioned the unsafe condition of the water heater at the Leased Premises, 1SG Henselder stated that the woman had told him that the water heater was "grandfathered" because it was installed before the building code was changed.

12. All persons present at the meeting interjected with occasional questions, except SFC Williams who mainly just observed. Several questions involved information that would otherwise be privileged from discovery, Plaintiff fearing another allegation of disrespect, tried to answer such questions while minimizing disclosure of privileged information.

13. MAJ Bishop attempted to persuade Plaintiff to dismiss all claims against Little & Young, Inc. Plaintiff explained that he had offered multiple settlement and Little & Young, Inc. had refused to settle out of court. MAJ Bishop persisted in trying to convince Plaintiff to just dismiss his claims, Plaintiff was only able to convince MAJ Bishop that this was a bad idea by pointing out that voluntary dismissal would not prevent Little & Young, Inc. from pursuing their claims,

and Little & Young, Inc. would automatically receive compensation for their attorney fees in both actions, *see* N.C. Gen. Stat. § 1A-1, Rule 41(d).

14. On 20 February 2009, Plaintiff was at the Post Office located at 301 Green St. Suite 200, Fayetteville, NC 28301. Mr. McLean's assistant Amy Bryan was at the post office at the same time, so in the lobby of said Post Office, Plaintiff hand delivered to Ms. Bryan copies of all subpoenas that Plaintiff was having served on witnesses for Cumberland County No. 08CVS6360, as is required by N.C. Gen. Stat. § 1A-1, Rule 45(b)(2). Plaintiff asked Ms. Bryan when she planned to provide him with copies of the subpoenas Mr. McLean was planning to serve on his Commander and First Sergeant. Ms. Bryan denied any knowledge of such subpoenas, denied that anyone at her office ever contacted Plaintiffs Commander or First Sergeant, and suggested that Little & Young, Inc. may have contacted Plaintiffs' chain of command without consulting their attorney.

15. On 25 February 2009, Plaintiff and Mr. McLean held a pretrial conference for Cumberland County No. 08CVS6360, as required by Rule 7 of the General Rules of Practice for the Superior and District Courts. During said conference, Mr. McLean informed Plaintiff that he had no intention of subpoenaing anyone in Plaintiff's chain of command, and had instructed Little & Young, Inc. not to contact them anymore.

16. On or about 27 February 2009, 1SG Henselder informed Plaintiff that he had received an email from the woman who had called him, which contained several photographs of the Leased Premises. 1SG Henselder said the photographs showed infestation and some carpet stains. 1SG Henselder also stated that some of it looked unreasonable, specifically 1SG Henselder mentioned a photograph captioned "dirty refrigerator" which showed an otherwise clean refrigerator with

two cups of coffee left in it. Plaintiff requested a copy of the email and the photographs, but 1SG Henselder said he didn't think he could provide it.

17. On 9 March 2009, Plaintiff obtained a protective order to prevent further contact by Little & Young, Inc. with Plaintiff's chain of command; said order is annexed hereto as Plaintiff's Exhibit B.

18. On the day Plaintiff was served with Plaintiff's Exhibit B, Plaintiff gave a copy to SFC Pezzella, and requested that he give it to 1SG Henselder. Plaintiff further requested that SFC Pezzella pass on Plaintiff's request that 1SG Henselder turn over the email and photographs that had been sent to him by Little & Young, Inc. Plaintiff's request was made threw SFC Pezzella in accordance with military custom that requests to the company first sergeant be made threw the platoon sergeant.

19. Responses to Plaintiff's interrogatories in Cumberland County No. 08CVS11240 were served on 6 April 2009. Shortly after receiving these responses, Plaintiff asked SFC Pezzella about his earlier request to 1SG Henselder. SFC Pezzella said that he had forgotten to pass on Plaintiff's Exhibit B and the request, but said he would do so.

20. SFC Pezzella was reassigned, and left 3rd BN 3rd SFG(A) around early to mid May 2009. In late May 2009 Plaintiff discovered that Plaintiff's Exhibit B was still setting on SFC Pezzella's desk. Plaintiff then approached 1SG Henselder directly with his request. 1SG Henselder said that he did not have the email any more, however at Plaintiff's request 1SG Henselder said that he would sign an affidavit testifying to the relevant events and the contents of the email.

21. Plaintiff had to remind 1SG Henselder a few times regarding the affidavit. However, by mid June 2009 1SG Henselder told Plaintiff that he had signed an affidavit and left it with SGT

Quinn, the paralegal for 3rd SFG(A). By the time that Plaintiff discovered this, Plaintiff had just come off a two-week detail, and SGT Quinn had already signed out on leave.

22. Plaintiff did not get an opportunity to speak with SGT Quinn until late July 2009. SGT Quinn said that he recalled notarizing the affidavit for 1SG Henselder, but he did not have it, SGT Quinn said he had given it back to 1SG Henselder. By this time both 1SG Henselder and MAJ Bishop had been reassigned and were no longer at Ft. Bragg, NC.

23. Trial for Cumberland County No. 08CVS11240 was held on 13-14 July 2009. At trial Rebecca Ross, property manager for Little & Young, Inc., testified as follows:

- (1) Mr. Meek, "In late February 2009, do you know if somebody from Little & Young contacted my Commander and First Seargent?"
- (2) Mr. McLean, "Objection."
- (3) Court, "She can answer, go ahead."
- (4) Ms. Ross, "Yes."
- (5) Mr. Meek, "What did you discuss with them?"
- (6) Ms. Ross, "My boss had requested that I contact him to ask him if he knew of what all was being entailed. What all you were trying to do to our company."
- (7) Mr. Meek, "So you contacted him and explained what to him exactly?"
- (8) Ms. Ross:
I don't remember to be honest with you. It was a brief phone conversation that we had. I asked him if he knew what was going on and what all you were trying to allege.
- (9) Mr. Meek, "So you were trying to acquire information from him?"
- (10) Ms. Ross, "No, just trying to see if he was up to speed to what was going on."
- (11) Mr. Meek, "So you informed him of the allegations of these proceedings?"
- (12) Ms. Ross, "Like I said Mr. Meek, I don't remember, it's been so long ago. I have no idea."

(13) Mr. Meek, "Did you happen to send to my Company Commander or First Sergeant a letter or email with photographs attached to it?"

(14) Ms. Ross, "Yes, he requested that I do."

(15) Mr. Meek, "And you sent it to him?"

(16) Ms. Ross, "Yes sir."

(17) Mr. Meek, "So it would be fair to say if he requested the photographs then you must have talked about the damages to the property correct?"

(18) Ms. Ross:

I don't think it was in June to be honest with you, because I believe this is after you moved out, so I believe. I don't remember exactly when it was that we had a conversation with them to be honest with you.

(19) Mr. Meek, "But you did none the less have a conversation with him after we moved out."

(20) Ms. Ross, "I can't remember if it's before you moved out, I believe it was after you moved out, cause of the condition of the house."

24. On 23 June 2009, Plaintiff served a subpoenas on the Company First Sergeant and Commander of HSC 3BN 3SFG(A), annexed hereto as Plaintiff's Exhibits C1-C3. These subpoenas were not complied with, nor did the Staff Judge Advocate ("SJA") contact Plaintiff to inform him that the subpoenas would not be complied with.

25. In early July 2009, Plaintiff personally delivered a second copy of Plaintiff's Exhibits C1-C3 to CPT Barry, SJA 3rd BN 3rd SFG(A). CPT Barry examined Plaintiff's Exhibits C1-C3, but refused to keep the documents. Plaintiff requested assistance in obtaining an unsigned statement under penalty of perjury by asking CPT Barry to contact 1SG Henselder and have him fax such a statement to CPT Barry's office. Plaintiff suggested that if CPT Barry could provide an affidavit certifying the authenticity of such faxed statement then the document could self

authenticate pursuant to N.C. Gen. Stat. § 8C-1, Rule 902. CPT Barry attempted to contact 1SG Henselder, but said that he would not certify the authenticity of an unsworn statement under penalty of perjury.

26. On 25 June 2009 Plaintiff made a Freedom Of Information Act request to The Department of the Army, said request is annexed hereto as Plaintiff's Exhibit D1. Plaintiff received a request for additional information on 14 July 2009, said request is annexed hereto as Plaintiff's Exhibit D2. On 31 July 2009 Plaintiff provided the requested additional information by sending the letter annexed hereto as Plaintiff's Exhibit D3. On 19 August 2009 Plaintiff received the email annexed hereto as Plaintiff's Exhibit D4. On 27 August 2009 Plaintiff responded to that email, said response is annexed hereto as Plaintiff's Exhibit D5. On 27 August 2009, Plaintiff's Exhibit D5 was forwarded to Plaintiff's yahoo account, Plaintiff again responded to inform the Department of the Army that Plaintiff could not access the information sent, said response is annexed hereto as Plaintiff's Exhibit D6. Plaintiff received no response to Plaintiff's Exhibit D6.

27. Plaintiff has been forced to take out a loan against Plaintiff's retirement account for the prosecution of this action, and for the appeal of the Lease Actions. Little & Young, Inc. was made aware that Plaintiff would have to finance these actions if settlement could not be reached, and that such financing would likely result in lost profits.

COUNT I

28. On 6 April 2009 Mr. McLean mailed to Plaintiff a response to interrogatories, relevant portions of which are annexed hereto as Plaintiff's Exhibit E, wherein Mr. McLean itemizes all damages to be claimed by Little & Young, Inc. in Cumberland County No. 08CVS11240.

29. Several damages enumerated in Plaintiff's Exhibit E are not legally recoverable by Little & Young, Inc., and therefore making demand of such damages is a violation of 15 U.S.C. § 1692e, 18 U.S.C. § 1341, and N.C. Gen. Stat. §§ 75-50 et seq.

COUNT III

30. On 30 June 2009 Mr. McLean mailed to Plaintiff Notice of Intent to Enforce Attorney's Fees Provision, annexed hereto as Plaintiff's Exhibit F, wherein Mr. McLean demands payment of all damages described in Plaintiff's Exhibit E. Plaintiff's Exhibit F violates 15 U.S.C. § 1692e, 18 U.S.C. § 1341, and N.C. Gen. Stat. §§ 75-50 et seq.

COUNT IV

31. On or about 18 February 2009 Little & Young, Inc. did communicate by telephone with Plaintiff's Commander and/or First Sergeant. Little & Young, Inc. were aware that Plaintiff's chain of command knew Little & Young, Inc. was represented by an attorney, yet Little & Young, Inc. communicated with Plaintiff's chain of command in such a way that Plaintiff's chain of command reasonably believed such communication came from, or was conducted under the guidance of, a licensed attorney. In said communication, Little & Young, Inc. did violate 15 U.S.C. §§ 1692b, 1692c, & 1692e, and N.C. Gen. Stat. §§ 75-50 et seq. and has conspired fraud under 18 U.S.C. §§ 1343 & 1349.

COUNT V

32. On or about 27 February 2009 Little & Young, Inc. did communicate by mail or email with Plaintiff's Commander and/or First Sergeant. Little & Young, Inc. were aware that Plaintiff's chain of command knew Little & Young, Inc. was represented by an attorney, yet Little & Young, Inc. communicated with Plaintiff's chain of command in such a way that Plaintiff's chain of command reasonably believed such communication came from, or was

conducted under the guidance of, a licensed attorney. In said communication, Little & Young, Inc. did violate 15 U.S.C. §§ 1692b, 1692c, & 1692e, and N.C. Gen. Stat. §§ 75-50 et seq. and has conspired fraud under 18 U.S.C. §§ 1341, or 1343, & 1349.

COUNT VI

33. All alleged violations of 18 U.S.C. §§ 1341 & 1343 by Little & Young, Inc. and Mr. McLean constitute violations of 18 U.S.C. § 1962.

COUNT VII

34. By failing to voluntarily provide Plaintiff with valuable evidence of retaliatory conduct by Little & Young, Inc., by failing to comply with subpoenas issued by the General Court of Justice, 12th Judicial District of North Carolina, by failing to report Plaintiff's request to Head Quarters Department of the Army, and by failing to inform Plaintiff whether the subpoenaed witnesses have accepted service of said subpoenas, 32 C.F.R. §§ 516 et. seq. has been violated by 3rd BN 3rd SFG(A). Furthermore, the withholding of such evidence has violated Plaintiff's right to due process of law, and equal protection under the law, *accord* U.S. Const. amend. XIV § 1.

COUNT VIII

35. The Department of the Army has failed to promptly provide Plaintiff with information requested pursuant to 5 U.S.C. § 552(a)(3)(A), and/or failed to provide Plaintiff with information in a format which Plaintiff could access as required by id. § 552(a)(3)(B). Requested information was a record as defined by id. § 552(f)(2) and was not exempted from disclosure under any provision of id. § 552(b).

IV. RELIEF

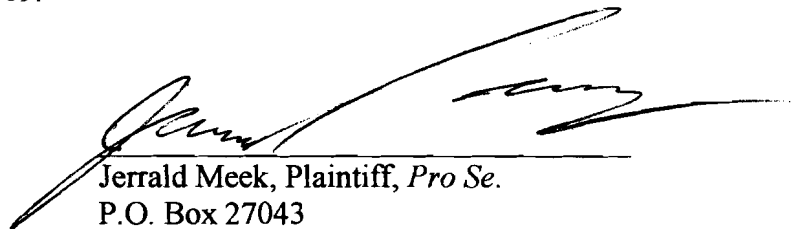
Plaintiff preys the Court for:

- (1) Judgment for Plaintiff and against Little & Young, Inc. and Mr. McLean as prescribed by 15 U.S.C. § 1692k, to include, but not limited to, reasonably calculable lost profits.
- (2) Any relief Plaintiff may be entitled to pursuant to 18 U.S.C. § 1964.
- (3) Declare the rights and other legal relations between Plaintiff and all Defendants as authorized by 28 U.S.C. § 2201.
- (4) Grant Injunctive relief to Plaintiff against further interference and/or noncompliance by the Department of the Army pertaining to Plaintiff's rights to due process of law and equal protection under the law in the Lease Actions.
- (5) Grant Plaintiff relief as provided by 5 U.S.C. §§ 552(a)(4)(B) & 552(a)(4)(E).
- (6) Any other and further relief as deemed appropriate by the Court.

V. JURY DEMAND

Plaintiff demands trial by jury on all factual issues triable by jury.

Signed this the 17th day of September 2009.



Jerrald Meek, Plaintiff, *Pro Se*.
P.O. Box 27043
Ft. Bragg, NC 28307
(910) 339-7026

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